STATE OF MICHIGAN

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GOVERNOR

OFFICE OF FINANCIAL AND INSURANCE REGULATION
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
STANLEY "SKIP" PRUSS, DIRECTOR

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COMMISSIONER

BILL ANALYSIS

BILL NUMBER:	House Bill 4423, as introduced
TOPIC:	Require explanation of Michigan Catastrophic Claims Association Assessment
SPONSOR:	Representative Joan Bauer
CO-SPONSORS:	Representatives Jon Switalski, Fred Durhal, Lesia Liss
COMMITTEE:	House Committee on Insurance
Analysis Done:	March 11, 2009

POSITION

The Office of Financial and Insurance Regulation (OFIR) supports this legislation.

PROBLEM/BACKGROUND

The Michigan Catastrophic Claims Association (MCCA) was established in 1978 and is a critical part of the no-fault automobile insurance system. Because there is no limit on the amount of coverage for personal injuries under a Michigan no-fault policy, the liability for this coverage would be too large for most individual insurers to bear. When a liability is larger than an insurer can afford to accept on its own, the insurer transfers part of the risk to other insurers through a mechanism known as reinsurance – insurance for an insurer.

Since the private market was not able to provide reinsurance for unlimited exposures, the MCCA was created to act as the reinsurer to companies writing auto insurance in Michigan. All auto insurance companies licensed in Michigan are members of the MCCA. As of July 1, 2008, each insurance company pays the first $440,000 of any catastrophic claim and is reimbursed by the MCCA for the rest. This retention of coverage limit will gradually be increased until it reaches $500,000, requiring each insurance company to assume more of the risk. Any amounts over the threshold are paid by the MCCA and spread across all member companies in the form of the annual MCCA assessment.

Each year, the MCCA board of directors analyzes the amount needed to cover the lifetime claims of all people catastrophically injured in car accidents. This analysis includes an actuarial review of the MCCA's investment returns, surplus and liabilities, including medical cost inflation. This analysis yields an amount needed to pay those lifetime claims and may be adjusted to reflect excesses or deficiencies in earlier assessments. A per vehicle assessment is set for the year based on this amount and each insurance company writing auto insurance is then assessed by the MCCA for each vehicle it insures. In this way, the MCCA acts as an insurer whose policyholders are Michigan automobile insurance companies.

The cost of this MCCA reinsurance for no-fault PIP coverage has always been included in a no-fault insurance policy and may be passed on to the consumer, in whole or in part, by their insurance company. Some insurers incorporate the MCCA assessment into the PIP portion of the insurance premium like they do other reinsurance premiums and expenses. Other insurers list it separately as a statutory assessment on the declarations page because all Michigan no-fault insurers are required by law to purchase their reinsurance from the MCCA. Additionally, not all insurers recoup the MCCA assessment in the same manner or amount. The Code does not prevent an insurer from adding administrative and other miscellaneous costs in the amount it assesses policyholders for this coverage (e.g. policy processing costs, agent commissions, etc.). Because of these differences, Consumers pay different amounts for MCCA coverages, depending on the insurer they do business with.

DESCRIPTION OF BILL

The proposed legislation would require each insurance company to receive prior approval from the Commissioner if it chooses to itemize the MCCA assessment on its declaration page or other company forms. The proposed legislation also includes restrictions as to how such itemization could be listed on the declaration page.

SUMMARY OF ARGUMENTS

Pro

As the amount of the MCCA assessment has increased over the years, many insurers have chosen to bring the MCCA expense to the attention of policyholders by itemizing this assessment on the policy declaration page. There is no statutory requirement for insurers to specifically identify the actual MCCA assessment amount separately from any other statutorily mandated assessments (e.g. Auto Theft Prevention Authority, Assigned Claims Facility, Guaranty Fund) or from any other company expenses (e.g. agent commissions, policy processing costs, etc.). This has made it difficult for consumers to distinguish between the actual MCCA assessment amount, other statutorily mandated assessment amounts and individual company expenses. Requiring insurers to provide this detailed information, if they choose to show the MCCA assessment amount on their declaration page or other company forms, would allow consumers to clearly see the MCCA amount separately from any additional company costs that are being collected. This may assist consumers in making an informed decision when comparing the cost of insurance from one insurance company to another.

Additionally, an insurer may be more hesitant to build in administrative and miscellaneous costs in its insurance policies if those costs are listed separately on the policy declaration page and if they are required to explain and/or justify those expenses to their policyholders. This would provide consumers with a greater degree of transparency regarding the actual costs of insurance and permit more effective comparison shopping.

Con

The goal of insurance companies is to provide insurance coverage at a reasonable premium while still remaining fiscally responsible and financially sound. As with any profitable business, insurance companies incur expenses to operate and these expenses are reflected in the final cost of the insurance product. Requiring insurance companies to specifically identify select operating expenses is unnecessary if the company's premium is competitive and if consumers have the ability to shop from company to company for insurance coverage.

FISCAL/ECONOMIC IMPACT

OFIR has identified the following revenue or budgetary implications in the bill as follows:

(a) To the Office of Financial and Insurance Regulation:

Budgetary: OFIR would incur additional expense to ensure that consumers and companies are aware of any changes, to review any company forms that would require prior approval from the Commissioner, to monitor companies for any violations, and to take appropriate enforcement action if such violations occur.

Revenue:

Comments:

(b) To the Department of Labor & Economic Growth: None known.

Budgetary:

Revenue:

Comments:

(c) To the State of Michigan: None known.

Budgetary:

Revenue:

Comments:

(d) To Local Governments within this State: None known.

Comments:

OTHER STATE DEPARTMENTS

None known.

ANY OTHER PERTINENT INFORMATION

This proposed legislation is similar to legislation introduced in previous legislative sessions.

ADMINISTRATIVE RULES IMPACT

The proposed legislation would amend the Michigan Insurance Code. OFIR has general rulemaking authority under the Insurance Code, 1956 PA 218.

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Ken Ross
Commissioner

3-17-09

Date